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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/630,549  | 07/29/2003  | Arthur Ashman        | 1527/1E848US3       | 7469             |
| 7278  | 7590        | 03/22/2007           | EXAMINER            |                  |
| DARBY & DARBY P.C.<br>P. O. BOX 5257<br>NEW YORK, NY 10150-5257 |             |                      | BOUCHELLE, LAURA A  |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3763                |                  |

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 03/22/2007 | PAPER         |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/630,549             | ASHMAN, ARTHUR      |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Laura A. Bouchelle     | 3763                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 January 2007.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 19-24 is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1/18/07.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

***Response to Amendment***

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4-7, 9-11, 12-14, 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dragan (US 4768954) in view of Vaillancourt (US 4127131). Dragan discloses a syringe having a syringe barrel 27, a piston 28, and a plunger 23, a nozzle tip 33 having a curved neck with a curved passage therethrough.

3. Claim 1 differs from Dragan in calling for the nozzle to have a filter. Vaillancourt teaches a syringe assembly having a nozzle portion 10 having a filter 18 mounted therein so that the fluid in the syringe can be delivered to the patient with as little impurities or extraneous matter as possible (Col. 1, lines 13-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Dragan to include a filter as taught by Vaillancourt so that impurities can be removed from the fluid before it is delivered to the patient.

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4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dragan in view of Vaillancourt and in further view of Sutherland et al (US 5061236). Claim 3 differs from the teachings above in calling for the mesh size of the filter to be about 105 microns. Sutherland teaches a filter having mesh openings of about 105 microns to filter out air bubbles or other foreign matter (Col. 4, lines 11-19). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Dragan in view of Vaillancourt to have a mesh size of about 105 microns as taught by Sutherland to filter out air bubbles or other foreign matter.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dragan in view of Vaillancourt in view of Seberg (US 4192305) in further view of Hargest (US 3938513). Claim 8 differs from Dragan in view of Vaillancourt in calling for the nozzle tip to be made of low-density polyethylene. Seberg teaches a catheter comprising biocompatible material such as low-density polyethylene (Col. 3, lines 34-36). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Dragan in view of Vaillancourt to include a nozzle formed of low density polyethylene as taught by Seberg so that the nozzle is biocompatible.

6. Claim 8 further differs from the teachings above in calling for the filter to be made of low-density polyethylene. Hargest teaches a filter formed of a rigid material such as polyethylene (Col. 2, lines 32-34). Therefore, it would have been obvious to one of ordinary

skill in the art at the time of invention to modify the filter of Dragan in view of Vaillancourt to be formed of polyethylene as taught by Hargest to provide the advantage of rigidity.

***Allowable Subject Matter***

7. Claims 19-24 are allowed.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1, 12, 15 have been considered but are moot in view of the new ground(s) of rejection.

9. The terminal disclaimer filed 1/8/07 has been approved and the double patenting rejection has been withdrawn.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Bouchelle whose telephone number is 571-272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



LAURA A BOUCHELLE  
EXAMINER  
ART UNIT 3763

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